

**From:** peter kloss (BITS)  
**To:** 'microsoft.atr(a)usdoj.gov'  
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**Subject:** Microsoft Settlement

The following is the personal opinion of Peter B Kloss and is not the opinion in any shape or form of his employers, the BBSRC (Biotechnology and Bioscience IT Services)

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Dear Sir

I do not know whether non US nationals are allowed to comment on this case. however, what happens in this case will have an enormous influence on what happens elsewhere, so I hope I am permitted to comment.

I am concerned that the settlement will not do what it is intended to do, that is, restrict the predatory behaviour of Microsoft. The nature of the exception clauses in the current agreement makes it possible for MS to continue to do whatever they want without hindrance. I think this is a bad thing to do and a bad message to give.

It is important that while Microsoft have this overarching dominant position that the interests of the public and consumer are properly protected. This is particularly in the area of choice - Microsoft have continually complained that restrictions on them will inhibit 'innovation' and choice. however, history teaches us that Microsoft have hardly ever innovated and have acted in a way to restrict choice for OEMs, business customers and consumers like to their advantage.

Let us take innovation: It is true that most OS and application 'innovations' have been either bought in or copied from third parties:

DOS - bought from a third party  
Windows (the concept) - from Xerox and Apple  
Excel - bought in from a third party  
Windows 95 GUI details - copied from Apple in many places (eg the keyboard short cuts)  
Explorer, Web Browsing - copied the concept from NCSA, Netscape etc  
Additional features in windows XP such as CD burning, camera connection and video editing - a straight copy of advanced features in Apple's MacOS

As for choice: In most respects Microsoft's leveraging of their position has restricted choice by squeezing out competitors and competing products.

A loss strongly felt personally was that Aldus once made an excellent presentation package called Persuasion. It is now a discontinued product because Aldus could not justify continuing marketing and developing the product in the face of PowerPoint being given away free by Microsoft with MS Office. This is classic predatory pricing killing off a product which was superior in every respect.

A more recent case is the free bundling of Internet Explorer and Internet Information Server with desktop and Server OS to the detriment of competitors such as Netscape and many other smaller but genuinely innovative companies. a recent scandal was the attempt by Microsoft to block access to their Web sites by non - MS browsers on the grounds that they were not 'standards' compliant. This was strongly contested by suppliers such as Opera Software and Microsoft had to grudgingly relent. but this attempt is only the tip of an iceberg in which MS try to persuade us that their browser is the standard by brute force. This must also be seen in the context that both browser and server are notorious security risks, in part due to the insecure architecture inherent in operating systems and applications supplied by Microsoft.

Furthermore it is also true that Microsoft devote more attention to adding features to their products in an attempt to crush competing products than they do to fixing long existing problems, for example, Excel still has a number of arithmetic bugs which have existed from before version 4 which have never been fixed.

Even now, Microsoft are attempting to extend their grip in other areas to the detriment of consumer and business choice:

In the area of network validation of personal credentials with the propriety 'Passport' authentication system

In the area of video streaming delivery with bundling of 'Windows Media Player' to the detriment of Real Inc's Real Player and Apple computer's Quicktime (a genuine standard)

In the area of on-line music delivery by attempting to corner the market with windows specific server and delivery technologies

In the area of home automation and device control with embedded OS products

I have not even touched on Microsoft's attitude towards OEMS, competing OS suppliers etc ..

This kind of behaviour is structural in a provenly monopolistic company. Remedies must be strong to correct this behaviour and I urge the DOJ to rethink its compromises to ensure that restrictions and punishments are appropriate to yield better behaviour. To be truthful, with the current huge market penetration of MS products, restrictions will not hurt the

company for a long time to come. When they do, it will be because genuinely innovative and superior products have taken a hold.

The fact is that in many areas where Microsoft have obtained an almost complete grip of the market they exhibit genuine monopolistic behaviour - such as many price increases forced on business users through less favourable bulk licensing schemes recently introduced. It is only a matter of time before this is attempted in other areas.

Microsoft has been legally proved to be a monopoly and to have abused its position - please treat it as such with remedies that bite.

Thank you for listening to me

with kind regards, Peter Kloss